

REMARKS

Status of the Claims

Claims 5-14 are pending. Claim 5 is amended.

Entry of the Amendment

Applicant respectfully submits that this amendment places the application in condition for allowance. Additionally, the amendment should not create any new issues requiring additional searching and/or consideration by the Examiner, especially in view of the Examiner's previous consideration of claim 1. As such, entry of the amendment is respectfully requested.

Issues Under 35 U.S.C. § 102

Claims 5-8 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the Breitweiser, Jr. et al., US Patent No. 5,408,914. This rejection is respectfully traversed. However, in view of the above amendment, Applicant respectfully submits that this rejection is moot.

US '914 is described in the Background of the Invention section of the Specification. As stated in paragraph 3 of the Office Action, US '914 discloses a computer unit that is capable of "...displaying information and instructions to aid the user in playing the instrument."

However, US '914 fails to disclose or suggest, among other things, an operating system that allows a user to create, store, recall, and manage music-related and non-music-related data. On the other hand, US '914 incorporates a "conventional CD," "prerecorded" with "control signals...used for operation of a visual display." See US '914 at col. 4, lines 10-27. It is clear that

US '914 fails to disclose the “identical invention [as] shown in as complete detail as is contained in the ... claim,” as is required to maintain a proper anticipation rejection. Richardson v. Suzuki Motor Co., 9 U.S.P.Q.2d 1931, 1920 (Fed. Cir. 1987).

In view if the deficiencies discussed above, Applicant respectfully requests that this rejection be withdrawn.

Issues Under 35 U.S.C. § 103

Claims 9-14 are rejected under 35 U.S.C. § 103 as allegedly being obvious over US '914 in view of Sitrick et al. (US 2003/0110926). This rejection is respectfully traversed. Reconsideration and withdrawal thereof are requested.

Initially, Applicant submits that in view of the above, claims 9-14 should be allowable based on the allowability of claim 5, from which they depend. Claim 5 is free from this rejection and allowable as discussed above. Claims 9-12 depend from claim 5. Accordingly, the instantly rejected claims, based on their dependency, are allowable as well.

Notwithstanding the claims allowability based on their dependency, one of ordinary skill in the art would not be motivated to combine the references in the manner suggested to arrive at the present invention. The Sitrick reference has been discussed in the record. It appears that it is being applied based in its disclosure of standatd microprocessor “which can be placed in any computer.” The Office Action apparently suggests that it would be obvious to use the standard computer and imaging techniques presented by Sitrick et al. in the computer unit positioned in the body of the stringed instrument shown by [the primary reference].”

As stated in the record, Sitrick et al. disclose an electronic music stand apparatus that comprises a performer substation that has a processing subsystem, librarian logic, performer logic, and communications management logic. The “system” of Sitrick comprises multiple workstations that share a music database. The Office Action fails to disclose any guidance as to why one of ordinary skill in the art would be motivated to pick the processor of this system, which the Office Action describes as being “standard,” combine it with one embodiment of the Sitrick system, the hand-held component, and incorporate it into the “training guitar” of the primary reference. Applicant respectfully submits that the embodiment referred to by the Office Action is not independent from the overall system of Sitrick, which includes the elements discussed above. As previously stated, the system of Sitrick does not approach the portability of the computer unit in combination with the stringed instrument as claimed.

The Federal Circuit has stated that when the basis on which it is concluded all the elements can be modified and combined is not specifically articulated, hindsight is improperly used to conclude the invention was obvious. See In re Kahn, 78 U.S.P.Q.2d 1329,1355 (Fed. Cir. 2006).

When the two disclosures are viewed as a whole, (i) the CD-based training guitar, with LED frets and strings of the primary reference, and (ii) the multiple workstation music stand communications system of the secondary reference, there is no showing that one of ordinary skill in the art, when confronted with same problem of the inventor, and with no knowledge of the present invention, would have selected the various elements, and portions of elements from the prior art in the claimed manner.

In view of the above, Applicant respectfully submits that the pending claims cannot be said to be obvious over the previously cited references.

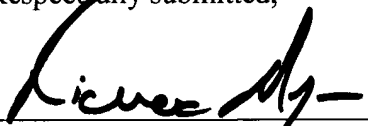
From the foregoing, further and favorable reconsideration in the form of a Notice of Allowance is believed to be in order and such action is earnestly solicited.

No fee should be required for this amendment.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with this Amendment to Deposit Account 50-2752.

If the Examiner has any questions regarding this Amendment or the Application in general, she is requested to contact the undersigned at the number listed below.

Respectfully submitted,



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